

 ORIGINAL¹

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

WILLIE DAVIS, JR.)
NATHANIEL BRIDDELL,)
GEORGE W. FEDDIMAN,)
JOSEPH GARRISON,)
LARRY E. GIBBS,)
ROY H. WALTERS,)
ALL SIMILARLY-SITUATED CURRENT)
AND FORMER EMPLOYEES OF)
MOUNTAIRE FARMS, INC.,)
MOUNTAIRE FARMS OF DELMARVA,)
INC., and MOUNTAIRE FARMS OF)
DELAWARE, INC.,)
Plaintiffs,)

-vs-

C.A. No. 04-0414

MOUNTAIRE FARMS, INC.,)
MOUNTAIRE FARMS OF)
DELMARVA, INC., and)
MOUNTAIRE FARMS OF DELAWARE,)
INC., all Delaware corporations)
Defendants.)

Deposition of WILLIE DAVIS, taken before
Pamela C. Washington, Registered Professional Reporter
and Notary Public, at the law offices of Young,
Conaway, Stargatt & Taylor, 110 West Pine Street,
Georgetown, Delaware, on March 15, 2005, beginning at
10:00 a.m.

APPEARANCES:

On behalf of the Plaintiffs:
Margolis Edelstein
BY: JEFFREY K. MARTIN, ESQ.
and KERI WILLIAMS, ESQ.
1509 Gilpin Avenue
Wilmington, Delaware 19806

On behalf of the Defendant:
Shawe & Rosenthal
BY: ARTHUR M. BREWER, ESQ.
and LAURA PIERSON SCHEINBERG, ESQ.
20 South Charles Street
Baltimore, Maryland 21201

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A00803

Davis - Brewer

1 treatment with a physician or a mental health care
2 provider?

3 A Not the mental health, no, sir.

4 Q Physical?

5 A Physical, yes.

6 Q Okay, and what are you being treated
7 for, sir, if you don't mind my asking?

8 A Degenerative heart condition --
9 degenerative heart condition.

10 Q Okay. Let's talk about your employment
11 with Mountaire; when did you first become employed
12 with Mountaire?

13 A About April of -- it was either 2000 or
14 2001.

15 Q Okay. Prior to being employed with
16 Mountaire, for whom were you working?

17 A I was independent weigh master for
18 Tyson Food.

19 Q So you were a weigh master for Tyson
20 Foods?

21 A Yes.

22 Q And how long did you have that
23 position?

24 A From 1997 until -- from the time that I
25 went to Mountaire.

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A00804

Davis - Brewer

1 Q All right, with whom?

2 A German Trucking and -- what's the name
3 of the place -- Carolina Poultry, I was relief weigh
4 master for different crews over there to Carolina
5 Poultry in Federalsburg and Denton, Maryland.

6 Q And when you weren't filling in as a
7 relief crew leader, what were you doing?

8 A I was live haul truck driver.

9 Q Okay. Was that also true when you were
10 with Showell, were you also a relief crew leader
11 there?

12 A I was relief crew leader for Perdue
13 when Perdue purchased Showell. But when Showell
14 was -- I was at Showell Cooking Good, I was a live
15 haul truck driver.

16 Q All right. And you didn't fill in
17 for --

18 A No, sir.

19 Q Okay, I think that answers my
20 questions. When you first became hired by Mountaire,
21 what position were you hired into?

22 A As a crew leader.

23 Q You were hired as a crew leader, okay.
24 And did there ever come a time when you worked for
25 Mountaire that you requested to go on a part-time

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A00805

Davis - Brewer

1 basis?

2 A The latter part of when they gave me --
3 when they laid my crew off, they offered me the
4 position of a part-time position, you know, as a crew
5 leader, and I accepted that.

6 Q Okay. So my question is did you
7 request to become part-time or not?

8 A Well, when they told me they was laying
9 my crew off, I requested the part-time, you know, to
10 fill-in crew.

11 Q Okay. So it was because they were
12 laying your crew off that you made that request?

13 A Yes.

14 Q Okay. And when you were operating as a
15 part-time crew, what time frame are we talking about?

16 A Well, when they first laid me off, I
17 went in as a crew leader for about six -- five or six
18 months straight with no time off or anything like
19 that.

20 Q Okay, I'm confused. You testified that
21 you were laid off.

22 A Yes.

23 Q I thought you told me you --

24 A As a full-time weigh master -- as a
25 full-time crew leader, I was laid off. Then they

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A00806

Davis - Brewer

1 brought me in as a relief crew leader.

2 Q Okay.

3 A And I had to fill in, you know, the
4 other crew leaders spot.

5 Q That's what I'm interested in, when did
6 that occur? When did you go from being a full-time
7 crew leader to a relief crew leader?

8 A From the time that they laid me off.

9 Q When was that?

10 A I cannot recall direct the date, the
11 exact date.

12 Q Can you give me a year, what year that
13 might have happened?

14 A It was one year after I was there for
15 the full-time position.

16 Q So a year after you became employed,
17 that's when you became a part-time crew leader?

18 A Yes.

19 Q Okay, one year after employment. And
20 as a part-time crew leader, what was your schedule?

21 A Pretty much the same as it was when I
22 was full time. In other words, I didn't get any time
23 off.

24 Q So you were working the same amount of
25 hours?

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A00807

Davis - Brewer

1 A Pretty much the same amount of hours.
2 In other words, I made the same -- almost the same
3 amount of money when I went -- when they put me on
4 part-time as I did a full-time, based on my W-2s.

5 Q Did you ever become a relief crew
6 leader?

7 A That was what I was supposed to have
8 been, relief crew leader. But we had one crew that --
9 one crew leader that was out, I think he was out
10 something like about six, seven months, something like
11 that, and I basically carried his crew out the whole
12 time.

13 Q Who was that?

14 A Roy Walters' crew.

15 Q That's when he had his surgery for his
16 knees?

17 A I think it was.

18 Q During the time that you were a
19 part-time crew leader or a relief crew leader -- and I
20 understand we can use those terms interchangeably,
21 part-time crew leader is the same thing as a relief
22 crew leader?

23 A Part-time relief is what they, you
24 know, had me down as relief crew leader.

25 Q Okay. So when you're talking about

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A00808

Davis - Brewer

1 being a part-time crew leader a year after you became
2 employed, it's the same as relief crew leader?

3 A I don't know how they would classify
4 that but I know that, you know, they had me down as
5 relief crew leader. I was supposed to have been
6 relief for the other crew leaders for when they wanted
7 to take off.

8 Q Is that what happened approximately a
9 year after you started with the company?

10 A Yes, sir.

11 Q Okay, that's what I want to know, all
12 right. Now, during that time that you were a relief
13 crew leader, did you ever just operate the forklift
14 for another crew?

15 A I never operated -- just operated the
16 forklift for another crew. I was working as the crew
17 leader, you know, taking the catchers to work, picking
18 them up, taking them home, and basically doing the
19 same thing as I done when I was a full-time crew
20 leader.

21 Q Okay. So what you're saying to me then
22 is during this period of time that were you a relief
23 crew leader, that you never operated the forklift?

24 A A lot of times, yes, I did; I had to.

25 Q But were you also the crew leader when

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A00809

Davis - Brewer

1 first vacation and then they -- then they put me in as
2 relief crew leader, then I got my second vacation the
3 next year. So I had two vacations while down there.

4 Q Okay. But during this time that you
5 were a relief crew leader, what I understood you to
6 tell me is from that period of time until the time you
7 left, that you only operated the forklift two or three
8 times?

9 A For another crew other than, you know,
10 the crew that I was with.

11 Q Right, for another crew, okay. When
12 you were a crew leader, how many people were on your
13 crew?

14 A There was seven catchers.

15 Q Okay, did you ever carry eight?

16 A Occasionally, like if an extra man went
17 along or something like that. But you only worked
18 seven catchers at a time.

19 Q Okay. And were you responsible for
20 making sure they did what they were supposed to do?

21 A We had to -- we had duties that we had
22 to, you know, perform.

23 Q Okay.

24 A You know, to get the job done.

25 Q Okay. Let me show you this document,

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A00810

Davis - Brewer

1 this is an Exhibit 2 to Mr. Garrison's deposition.
2 What I'd like you to do, sir, is just -- we'll go off
3 the record -- have you take a few moments to take a
4 look at this. Do you see on the first page there's a
5 Roman Numeral II, it says Crew Leaders General Duties?

6 A Yes, sir.

7 Q And it goes on? What I'd like you to
8 do is just take a quick look at this -- well, take as
9 much time as you want, it doesn't have to be a quick
10 look, and tell me basically are these the
11 responsibilities that you had as not only a crew
12 leader, but also a relief crew leader, okay? Would
13 you do that for me?

14 A Yes, sir.

15 Q Thank you.

16 (Whereupon, there was a discussion held
17 off the record.)

18 BY MR. BREWER:

19 Q Are you finished, sir?

20 A Yes.

21 Q Mr. Davis, you indicated to me that you
22 had an opportunity now to review Garrison Exhibit
23 Number 2?

24 A Yes.

25 Q The Crew Leader General Duties that you

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A00811

Davis - Brewer

1 looked at, were those the general duties that you had
2 when you were a crew leader?

3 A Yes.

4 Q And a part-time leader?

5 A Yes.

6 Q And, I'm sorry, and a relief crew
7 leader?

8 A Yes.

9 Q Thanks. Let's move along here. I'm
10 going to also show you, sir, Exhibit Number 1 to
11 Mr. Garrison's situation; I'd ask you to do the same
12 thing, take a quick look at this and, when you finish,
13 let me know, please.

14 A Yes, sir.

15 Q When you were both a crew leader and a
16 relief crew leader, was it your responsibility to fill
17 out this form?

18 A Yes, sir.

19 Q Okay. And to make whatever notations
20 were appropriate on it?

21 A Yes, sir.

22 Q Okay, thank you. I'm going to again,
23 maybe to expedite things since I made a commitment to
24 your counsel that we'd try to be done within a certain
25 period of time, these are time off requests, this

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A00812

Davis - Brewer

1 would be Exhibit 1 to your deposition.

2 And, again, what I'd ask you to do,
3 sir, if you don't mind, what I'd like you to do is
4 this: Look at the name of the employee, what they're
5 requesting, and tell me if that is your signature
6 approving the request for either vacation or for time
7 off.

8 A Yes, sir.

9 Q Would you mind taking a look off the
10 record? We can go through each one individual; which
11 would you prefer me to do?

12 A It doesn't matter to me.

13 Q We'll take a few seconds, go off the
14 record, and take a look at these.

15 (Whereupon, there was a discussion held
16 off the record.)

17 THE WITNESS: All of these are not my
18 handwritten signature.

19 BY MR. BREWER:

20 Q Okay, maybe what we can do is can you
21 tell me which ones are not? I'll tell you what, the
22 first one I have is Mr. Fosque.

23 A That's mine.

24 Q That's your signature?

25 A Yes.

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A00813

Davis - Brewer

1 Q Okay. The next one is again
2 Mr. Fosque.
3 A That's mine.
4 Q The next one is again Mr. Fosque.
5 A That's mine.
6 Q The next one is Mr. Fosque again.
7 A That's mine.
8 Q The next one is Mr. Tucker.
9 A That's not mine.
10 Q That is not your's?
11 A I didn't -- no, I don't sign like that.
12 Q Okay. The next one is Mr. West,
13 Russell West.
14 A I'm looking at it now. I don't know, I
15 don't sign my name like that. Not the d-a, I don't
16 think.
17 Q Okay. But on the first page,
18 Mr. Fosque, that is your's?
19 A Yes.
20 Q Okay. Next one, Mr. West again.
21 A It's possible it could be mine.
22 Q Okay. Mr. Antonio Walters?
23 A That's not my signature.
24 Q Mr. Foreman?
25 A That's not mine.

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A00814

Davis - Brewer

1 Q That's not your's?
2 A No, sir.
3 Q Okay. Mr. Foreman again?
4 A Could be mine, I don't know.
5 Q Okay. A third time Mr. Foreman?
6 A No, sir.
7 Q That's not your's?
8 A No.
9 Q Mr. Major?
10 A No.
11 Q Do you know Mr. Major? It looks like
12 it's Thomas Major.
13 A Yeah, I know him, yes.
14 Q Was he on your crew?
15 A He was on Roy Walter's crew.
16 Q He was on Roy Walter's crew, okay.
17 A But that's not my signature.
18 Q Okay. Let me just go back two to
19 Mr. Foreman, was he on your crew or whose crew was he
20 on?
21 A Who?
22 Q Mr. Wardell Foreman.
23 A He was with -- yes, he was at one time
24 on one of the -- yes, my crew, yes.
25 Q He was on your crew?

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A00815

Davis - Brewer

1 A Yes.

2 Q Okay. Then let's move along. I have a
3 Richard Parker, is that your signature there?

4 A Yes, that's mine.

5 Q And Mr. Parker, was he on your crew?

6 A Yes, sir.

7 Q I have Mr. Parker again, is that your
8 signature?

9 A It's possible, it's something similar
10 to mine.

11 Q Okay. And Mr. Parker a third time, is
12 that your signature there?

13 A I don't think so.

14 Q And the last one, Mr. Parker for a last
15 time?

16 A That looks like my signature.

17 Q Mr. Parker, I don't know if I asked
18 you, was he on your crew or someone else's crew?

19 A He was on my crew.

20 Q Okay, good, thanks.

21 (Davis Exhibit 1, marked for
22 identification.)

23 BY MR. BREWER:

24 Q Sir, let me show you Exhibit Number 8
25 to Mr. Garrison's deposition; have you ever seen that

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A00816

Davis - Brewer

1 Q Okay. Do you remember telling me that
2 you were unable to catch because of your heart
3 condition?

4 A I said I'm unable to catch night after
5 night, which I would tell anybody, you know. But to
6 get in there and catch some chickens, I had to do
7 something to get the job done. But I mean I'll tell
8 anybody, and even at my age, I cannot catch chickens,
9 you know, like a young --

10 Q Well, forgetting the age, I mean it's
11 your physical condition, your heart condition that
12 stops you from catching?

13 A Yes.

14 Q Okay. All right, let's move along.
15 Let me show you this exhibit, Mr. Davis, this is
16 Number 15 to Mr. Garrison's deposition, this is an
17 invitation to the supervisory Christmas party. If you
18 look under Mr. Lynch, do you see your name there in
19 2003? Its the last name there.

20 A Oh, yes. Yes.

21 Q Did you receive an invitation to the
22 supervisory Christmas party?

23 A I received an invitation to a Christmas
24 party to Ocean City.

25 Q Did you go?

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A00817

Davis - Brewer

1 A One of them, I went; the rest of them,
2 I didn't go.

3 Q Okay. The ones that you went to, did
4 you see any people there who were not supervisory
5 people?

6 A Yes, I did.

7 Q Who did you see that wasn't a
8 supervisor?

9 A The switch board operator, and some
10 more but right offhand I can't recall their names.

11 Q Okay. Well, there are three
12 invitations here, one is for 2002, one is for 2003,
13 and one is for 2001; you went to one of them?

14 A It was one of them that I went to. I
15 know the last one or two or something like that, I did
16 not go.

17 Q Okay, do you remember being invited to
18 all three?

19 A I do remember being invited to the
20 first one, yes.

21 Q The first one, that would be in '01?

22 A I guess it must have been '01, yes.

23 Q Okay. But you don't remember being
24 invited to the second or the third?

25 A I didn't -- if I was, you know, I

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A00818

Davis - Brewer

1 didn't pay any attention.

2 Q Okay. So you might have been, but you
3 just don't remember?

4 A No.

5 Q Okay.

6 A I wasn't interested in it.

7 Q Okay, that's fine. What I'm going to
8 ask you to do, sir, is look at the complaint in this
9 case. Let's see, what time is it? I'm almost
10 finished, so why don't we do this: This is the
11 complaint that was filed in this case, sir, that's
12 Number 16 for Mr. Garrison's deposition.

13 I'd ask you to go to page 3, number 23,
14 and that says that the defendant, being Mountaire,
15 followed and continues to follow a corporate policy
16 and/or practice that requires/required plaintiffs to
17 submit a daily time sheet broken down for each day of
18 the week, okay? Was the time sheet that's being
19 referred to here, if you know, the time sheet that you
20 kept for the catchers?

21 A It was kept for the time that we would
22 start catching on the farm until the time that we
23 finished catching.

24 Q Okay, and that was for the catchers'
25 time? You were maintaining the time that the catchers

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A00819

Davis - Brewer

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1 worked?

2 A Pretty much so, yes.

3 Q You weren't maintaining time that you
4 worked?

5 A No.

6 Q Okay. Go to the next page, please, and
7 look at paragraph 26. I'll let you take a minute and
8 read that. Just let me know when you have had a
9 chance to read it.

10 A Yes.

11 Q Okay. Did you ever take a half a day
12 or something less than a full day off from work from
13 the time you first became employed until the time you
14 quit?

15 A From the time that I was employed to
16 the time I quit?

17 Q Yes.

18 A I was -- I had to go to the hospital
19 and I spent -- I was out of work there for about
20 pretty close to two weeks.

21 Q Okay, that's a full day; did you ever
22 take any half days off?

23 A No, no, no, sir.

24 Q Okay, thank you. Can you take a look
25 at the next page? I'm sorry, the page after that.

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A00820

Davis - Brewer

1 When, by the way, did you quit working for Mountaire?

2 Do you remember when you quit?

3 A Say that again.

4 Q Do you remember when you quit for
5 Mountaire? I'm sorry I meant to speak up.

6 A It was the latter part of 2003.

7 Q All right. So does December of 2003
8 sound right?

9 A Right around that, yes.

10 Q Okay.

11 A It was a little before Christmas -- no,
12 it was right at Christmastime.

13 Q Right at Christmas?

14 A Yes.

15 Q Okay, so 12-25, approx, '03. This
16 paragraph talks about when the company, the defendant,
17 learned of the plaintiffs', one of which would be you,
18 intention to seek counsel, that we retaliated against
19 plaintiffs by threatening them with termination of
20 their employment if they continued.

21 MR. MARTIN: Excuse me, could you --

22 THE WITNESS: I was not there.

23 MR. MARTIN: Could you mention that
24 paragraph, I may have missed the number?

25 MR. BREWER: Sure, paragraph 34.

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Davis - Brewer

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1 Q Okay. Who was driving the car?

2 A I could not -- well, I couldn't -- I'm
3 not going to sit here and say I know who was driving
4 the car. I know it was Mountaire's car.

5 Q How did you know that?

6 A Because I know, I knew Mountaire's
7 cars.

8 Q How do you know Mountaire's cars?

9 A Because of their shape, the type of
10 vehicle they are.

11 Q What type are they?

12 A The Ford Crowns.

13 Q Crown Victoria's?

14 A Yeah. And myself and Roy Walters, and
15 I don't recall whether it was Mr. Martin or Anthony
16 and one more of the crew leaders was standing in the
17 yard when I pointed it out.

18 Q Mountaire isn't the only company that
19 has Crown Victoria's, are they?

20 A I didn't say, but I'm just saying I
21 know Mountaire's car. I knew that was Mountaire's
22 car, I know that.

23 Q How did you know it?

24 A Because I know it was Mountaire's car.
25 In other words, I know Mountaire's car when I see it.

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A00822

Davis - Brewer

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1 Q I understand that; how do you know it,
2 is there --

3 A Because of antennas that was on it and
4 the way it, you know -- and it looked like I
5 recognized -- I knew it was not Mr. Edward Brown. It
6 appeared to be Mr. Phil Owens, you know, that's who it
7 appeared to be.

8 Q Okay. Now, Mr. Phil Owen does not have
9 a company car, do you know that?

10 A Well, that's -- that's Mountaire's car;
11 I said it appeared to be, I didn't say it was him.
12 But I know it was one of Mountaire's personnel driving
13 the car.

14 Q You have been down on the shore and
15 working the poultry industry for a lot of years,
16 haven't you?

17 A About 38, 39 years, something like
18 that.

19 Q Do you know the kind of car that people
20 from Allen Food drive?

21 A I never done any dealings with Allen
22 Foods, I never weighed any chickens for Allen Foods,
23 never caught their chickens.

24 Q I'm not suggesting you did. I'm just
25 suggesting people with Allen Foods drive Crown

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